

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA, <u>et al.</u> , <u>ex rel.</u> ,	:	
CHARLES STRUNCK, <u>et al.</u> ,	:	
	:	
Plaintiffs,	:	
	:	Civil Action No. 12-CV-0175
v.	:	
	:	
MALLINCKRODT ARD LLC (f/k/a	:	
Mallinckrodt ARD, Inc.; f/k/a Questcor	:	
Pharmaceuticals, Inc.),	:	
	:	
Defendant.	:	
	:	

---

**ASSENTED-TO MOTION TO STAY PROCEEDINGS**

Mallinckrodt ARD LLC (“Mallinckrodt”), with the assent of the United States and the Relators, requests that the Court stay all proceedings and deadlines in this action for a period of six months, until March 29, 2021. Mallinckrodt submits that the proposed extension would serve the interests of judicial economy and efficient and effective case management, as the parties have reached a settlement in principle that, while subject to the requisite approvals (including by the U.S. Department of Justice and relevant agencies), would resolve this action and given that, on October 12, 2020, Mallinckrodt filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101-1532, *et seq.* (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of Delaware.

As further grounds for this Motion, Mallinckrodt states the following:

1. On June 4, 2019, the government filed a Complaint in Intervention in the above-captioned action. ECF No. 57.

2. On August 19, 2019, Mallinckrodt filed a Motion to Dismiss the United States' Complaint in Intervention. ECF No. 73.

3. On January 22, 2020, the Court issued a Memorandum and Order denying Mallinckrodt's Motion to Dismiss. ECF No. 83, 84.

4. On February 21, 2020, Mallinckrodt filed its Answer to the United States' Complaint in Intervention. ECF No. 91.

5. On October 12, 2020, Mallinckrodt and affiliated debtor entities filed voluntary petitions for relief under the Bankruptcy Code in Delaware (the "Chapter 11 Cases").

6. Prior to the filing of the Chapter 11 Cases, Mallinckrodt reached a settlement in principle with the parties that would resolve this action. That agreement is subject to the requisite approvals, including of the U.S. Department of Justice and relevant agencies, and is anticipated to be implemented through the restructuring plan for Mallinckrodt in the Chapter 11 Cases.

7. Mallinckrodt submits that a stay of this proceeding would serve the interests of judicial economy and efficient case management, as it anticipates that the parties will finalize settlement agreements within that time period. It is DOJ's position that under 11 U.S.C. § 362(b)(4), this case is excepted from the bankruptcy automatic stay, necessitating the need for this consent motion.

8. The stay of this proceeding has been agreed to by all the parties.

9. A stay of this proceeding is within this Court's discretion. This authority is "incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants." *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936).

10. For the foregoing reasons, Mallinckrodt respectfully requests that the Court stay all proceedings and deadlines in this action for a period of six months, until March 29, 2021.

11. The United States and the Relators assent to this Motion.

Dated: October 13, 2020

/s/ John N. Joseph

John N. Joseph  
I.D. #046643  
Post & Schell, P.C.  
Four Penn Center, 14th Floor  
1600 John F. Kennedy Blvd.  
Philadelphia, PA 19103  
Telephone: (215) 587-1191  
Facsimile: (215) 320-4190  
jjoseph@postschell.com

/s/ Mitchell S. Ettinger

Mitchell S. Ettinger (admitted *pro hac vice*)  
John T. Bentivoglio (admitted *pro hac vice*)  
Bradley A. Klein (admitted *pro hac vice*)  
Avia M. Dunn (admitted *pro hac vice*)  
Skadden, Arps, Slate, Meagher & Flom LLP  
1440 New York Avenue NW  
Washington, DC 20005  
Telephone: (202) 371-7000  
Facsimile: (202) 393-5760  
mitchell.ettinger@skadden.com  
john.bentivoglio@skadden.com  
bradley.klein@skadden.com  
avia.dunn@skadden.com

*Counsel for Defendant*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which automatically serves notification of such filing on all Counsel of Record, and is available for viewing and downloading from the CM/ECF system.

Date: October 13, 2020

/s/ John N. Joseph  
John N. Joseph